

TESTIMONY OF

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**BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION**

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Introduction

Good [morning/afternoon], Chairman Cummings, Ranking Member LaTourette and Subcommittee members and staff. Thank you for your invitation to address you today about the continued prevalence of sexual assaults against Americans on cruise ships and the willful failure of the cruise industry to institute reasonable security measures, properly respond to sexual assault incidents, care for the victims of these horrific crimes, discourage an onboard culture of reckless profligacy, and warn future passengers of the ongoing danger of rape and sexual assault during cruise vacations.

I am a partner at the law firm of Winston & Strawn LLP, where I specialize in white-collar criminal defense and corporate internal investigations. From 1991-2001, I served as an Assistant United States Attorney for the District of Columbia. In these capacities, I have overseen both criminal investigations and internal corporate investigations, and I have represented corporations and individuals before federal enforcement authorities and regulators, and in criminal and civil litigation. My perspective on the issues addressed by this Subcommittee today has been forged from my experiences both as a prosecutor and as counsel to large corporations. Any way I look at it, the vacation cruise industry is a business in deep trouble.

Last March, Laurie Dishman testified before this Subcommittee and told her heart-wrenching story of how she was raped by a Royal Caribbean employee and was then further victimized by a company that managed its own risk instead of caring for her. Laurie Dishman identified herself as "the next Janet Kelly," relating her story to that of another sexual assault victim who had previously testified before Congress. Laurie Dishman warned that just as she was "the next Janet Kelly" so too would there be a "next Laurie Dishman."

Members of Congress, I represent the next Laurie Dishman, a young American woman who was forcibly raped during what was promoted as a safe vacation experience. Rape is a loathsome crime that has been accurately described as "the murder of the soul." My client is understandably still very shaken by what happened to her and does not wish her identity to be disclosed at this time. To respect her wishes, I will refer to her as Jane Doe throughout my testimony.

What happened to Jane is not an isolated incident. Rather, it persists in an industry that has willfully failed to exercise even the most basic corporate controls despite ample evidence of the dangers to which its passengers are exposed, several reports and recommendations as to how to prevent or minimize those dangers, and its own prior promises to this Congress. I can tell you today that unless cruise lines such as Royal Caribbean drastically change their corporate attitude regarding sexual assaults on their ships, either by their own initiative or as a result of Congressional action, there will be many, many more women victimized like Janet Kelly, Laurie Dishman, and my client, Jane Doe.

Jane Doe's Story

Just two weeks before this Subcommittee's March 2007 hearing on cruise ship crime, Jane—a 20-year-old college student—boarded a Royal Caribbean ship with some of her college-age, female friends, to experience the fun and relaxing spring break she saw portrayed in Royal Caribbean's promotional literature. Jane and her friends were led to believe they would be safe onboard the ship, and looked forward to an enjoyable vacation. Midway through the cruise, Jane was brutally raped by her Royal Caribbean cabin steward, who entered a cabin with his Royal Caribbean-issued passkey, after hours, to rape Jane while she slept.

The crewmember who did this was a predator. Earlier that evening, even though he was off duty and had no reason to be near the cabins of Jane and her friends, he imposed himself upon these young women, giving them Royal Caribbean alcohol and encouraging them to consume it with him. During this time, the crewmember watched and lingered as Jane and one of her friends fell sound asleep. Jane's friends escorted him out of the cabin and closed and locked the door behind them before going to their own cabin. Shortly thereafter, the crewmember used his Royal Caribbean passkey to enter the cabin where he knew Jane and her friend lay fast asleep. Without waking Jane or her friend, the crewmember removed Jane's shorts and bikini bottom and forcibly raped her.

Jane awoke as a result of the rape. She struggled to push the rapist off her. She fled the room to seek help. The cabin steward pursued her into the hallway, telling her that nobody would hear her cries for help. She then fled back to the room and slammed the door on him. While Jane and her friend cowered in the cabin, there was a persistent knocking on the door. Because Royal Caribbean's door did not have a peephole, there was no way for Jane and her friend to see who it was. In fact, it was her attacker. Fortunately for Jane, he soon thereafter fled the scene.

Unfortunately, there are no security tapes of the rapist entering the cabin, of Jane attempting to flee her attacker, or of her attacker pursuing her back to the room and persistently knocking on the door. Although corridor security cameras have been a commonplace security feature in hotels around the world for many years, Royal Caribbean has chosen to limit its placement of such equipment to other areas, such as stairwells and lounges. As a Royal Caribbean employee, the rapist plainly knew that his attack would not be observed or recorded by security personnel.

Jane's companions reported the crime immediately by dialing 911 on the ship's phone. The Royal Caribbean employee who answered this call initially did not take the report seriously. In fact, he laughed.

A short time later, Jane was taken to the ship's infirmary, where she expected to receive the urgent medical care and forensic treatment she needed. Instead, she encountered a medical staff whose actions were only to serve Royal Caribbean's risk management interests, at the expense of Jane's medical and emotional needs. The doctor responsible for treating her did not even attempt the most basic procedures consistent with current medical practices that doctors should perform when presented with a rape victim. This doctor did not examine her, did not ask her if there was alcohol or prescription medications in her system, did not perform a rape kit, and did not give her anti-retrovirals and other medications that are so critical when administered properly in preventing HIV and other sexually transmitted diseases.

The only thing that Royal Caribbean's doctor did perform was to fulfill the risk management role assigned to her by Royal Caribbean. Even though Jane was coherent and communicative when she arrived in the infirmary, albeit shaking from the trauma of her rape, the nurse immediately injected Jane with the powerful drug, Lorazepam. Lorazepam is a strong sedative with amnesic properties, tending to cause forgetfulness and to affect memory. Moreover, Lorazepam is known to be dangerous when administered to persons with other medications or alcohol in their systems. Nevertheless, the nurse injected Jane with the drug without even inquiring into her medical history or recent ingestions. Further, Royal Caribbean's nurse did this knowing that Royal Caribbean's doctor would soon compel Jane to make a written statement about the rape, and would be interviewed by local law enforcement.

Indeed, after a short wait for the injection to take effect, the doctor ordered Jane to complete and sign a Royal Caribbean statement form, without informing Jane that the information she provided was not for any medical use, but instead was to be turned over directly to Royal Caribbean's risk management personnel and lawyers. Clearly, such statement form served no legitimate medical purpose, but only served to fulfill Royal Caribbean's risk management purposes and liability defense. Indeed, the doctor provided no medical examination or treatment of Jane whatsoever.

Instead, the doctor abandoned Jane on an infirmary cot for almost six hours, leaving her in a sedated state, in which she was unable to provide meaningful information to local law enforcement. Further, the doctor initially refused the requests of Jane and her companions to call their parents for help and guidance, by telling them that they would have to wait until after the ship sailed from the port.

As a result of Royal Caribbean's doctor's heartless failure to administer anti-retrovirals or rape kit, Jane waited so long before receiving real treatment that she was outside the recommended effective timeframe for receiving these critical medications. Further, the medically and forensically unwarranted passage of time permitted evidence of the rape to deteriorate within and on her body.

The lack of care given in Jane's case extended far beyond the malfeasance of the personnel in the infirmary. Contrary to testimony presented to this Subcommittee in March, Royal Caribbean did not assign the most-senior female officer to serve as Jane's advocate. Rather, Royal Caribbean left Jane and her friends to fend for themselves amid foreign law enforcement personnel and Royal Caribbean employees whose actions were directed exclusively to protecting the company's liability interests.

Royal Caribbean ultimately abandoned Jane at the foreign port of call to the local authorities. The company refused to provide accommodations to permit her traveling companions to remain with her, so Jane and one friend stayed behind while the rest of their group left with the ship. Since Jane had received no actual medical treatment onboard and no rape kit had been performed, the local police took her to a hospital emergency room, which, ironically, was only minutes away from the ship. However, because Royal Caribbean failed to make any provisions for taking Jane to the best possible facility in the city—even though it was virtually the same distance from the port—the police took her to the local public hospital. As a result, Jane was not treated until many hours after she should have been, and then received substandard care. Among other things, she did not receive the anti-retrovirals she needed to minimize the risk of HIV infection until at least six hours later, and even then, she received only half of the standard dosage of these anti-retrovirals which she should have received, and would have received, at any reputable emergency room in the United States.

Even after Jane left the ship, Royal Caribbean continued its risk management tactics. Witnesses have reported that Royal Caribbean failed to properly secure the crime scene such that unauthorized individuals had easy access to it.

Royal Caribbean also failed to consider the needs of Jane's traveling companions, who remained on the ship until the father of one of Jane's friends contacted law enforcement in the United States and informed them that his daughter did not feel safe onboard. Upon receiving this report, the ship's staff captain pressured the young woman to retract her statement, and to say that she was fine. Of course, she was not fine. These young women were all traumatized by what had happened, and they had virtually no information regarding Jane's condition or well-being.

Meanwhile, as Jane was traveling back to the United States from the foreign port, she received persistent calls on her cell phone from an individual in Royal Caribbean's "guest care" department. This person insistently pressured her to accept counseling with a therapist associated with Royal Caribbean—whose employee had just raped her—and continued to harass Jane even after she declined. Through correspondence with Royal Caribbean, it later became clear that Jane's instincts were correct. Just like the doctor onboard the ship, this purported "guest care" person was part of Royal Caribbean's risk management operation. She took notes regarding her calls with Jane and passed on a distorted account of these conversations to Royal Caribbean's lawyers.

Surprisingly—and this is unusual because it is apparently extremely rare even though cruise ships are controlled environments that cannot be easily fled—Jane's rapist was apprehended by local authorities, is currently incarcerated, and will stand trial. Despite this, Royal Caribbean still refuses to provide Jane either the basic information necessary for her continuing medical care, or the evidence it retains that is needed to bring Jane's rapist to justice. For example, even though U.S. privacy laws do not apply to foreign cruise line employees, Jane still has not received her rapist's Royal Caribbean medical records. As a result, she is forced to live daily with the dread that the half-dosage of anti-retrovirals and other medications she received many hours too late will prove insufficient to protect her from HIV and any other sexually transmitted diseases her rapist may have had.

Additionally, Royal Caribbean has refused to share with Jane or the local prosecutors the non-privileged statements it obtained from the rapist during repeated visits to him in the foreign prison.

Royal Caribbean had a duty to Jane Doe, as it had a duty to Laurie Dishman and Janet Kelly before her. It betrayed that duty when it gave a rapist unrestricted access to her and her cabin, when it injected her with a dangerous drug to inhibit her ability to report her attack, and when it failed to provide the medications she needed to prevent HIV infection, and it continues to betray her as it fails to support her efforts to see the rapist brought to justice.

Royal Caribbean's Track Record

Jane's experience is far from unique. Royal Caribbean was able to execute its well-orchestrated risk management plan because it deals with these situations frequently. In my experience, corporations that uncover problems within their organizations have two options: 1) they can admit there is a problem and take immediate short- and long-term steps to address it; or 2) they can do nothing and act to hide the problem.

Royal Caribbean seems to believe that since these crimes occur far away from the eyes of the news media and U.S. law enforcement personnel, it sails with impunity and can get away with failing to take reasonable preventative measures, failing to report sexual assaults, tampering with witnesses, contaminating crime scenes and allowing them to deteriorate, and continuing to misrepresent the risks of sexual assault to which it exposes the U.S. citizens who pay money to vacation onboard its ships.

The problem is that with every warning Royal Caribbean fails to heed, victims like Jane pay the price. And Royal Caribbean has received plenty of warnings. The company has known for years that sexual assaults are a problem on its ships. In the past several years alone, Royal Caribbean ships have been the scene of hundreds of reported sexual assaults, many by Royal Caribbean employees.¹ Indeed, in Jane's case, the specific Royal Caribbean personnel onboard

¹ Kimi Yoshino, *Cruise industry's dark waters; What happens at sea stays there as crimes on liners go unresolved*, Los Angeles Times, Jan. 20, 2007.

had prior personal experience responding to a reported sexual assault. Mr. Crisologo Dionaldo, who served as head of security on Jane's vessel, also was the head of security on Laurie Dishman's ship when she was brutally raped by a Royal Caribbean employee.

In May 1999, Royal Caribbean hired a consulting company, The Krohne Connection, to prepare a report regarding the problem with sexual assaults on its cruise ships. The report concluded that "improper activity occurs frequently aboard ships, but goes unreported and/or unpunished." In June 1999, another consulting company hired by Royal Caribbean, Swailes, Sheridan, Slade & Associates, presented a study to the company entitled "Reducing Sexual Assaults on Cruise Ships: Risk Assessment and Recommendations." This study concluded that "crew members generally understand that if they commit an offense and are caught they are most likely going to lose their job and be returned home, but not spend time in jail." These consulting firms recommended concrete steps Royal Caribbean could take to reduce the number of sexual assaults on its ships. I am presently unaware as to whether Royal Caribbean has altered its written policies in response to these recommendations, although I intend to find out. I can tell you that, based on Jane's experience, these changes have not been implemented in practice, even though the company received these reports eight years ago.

Recommendations for Improvement

There are many things Royal Caribbean and other cruise lines could and should do to prevent sexual assaults and—when these crimes occur—to properly investigate them and care for their victims. Most of these ideas are not new or particularly innovative. They have been recommended to the cruise lines by their own consultants, by past victims and by members of Congress. They have been used by the hotel industry and other tourism-based industries for years, which have found them to be both successful and cost-effective. Despite the many pleas

for improvements, the practical recommendations, and the proven track record of such actions, the cruise line industry has not implemented these changes. I am here today in the hope that a combination of public and Congressional pressure will finally force Royal Caribbean and other cruise lines to do what they should have done years ago to prevent and properly respond to these horrible crimes.

At a minimum, cruise lines should:

- Institute passkey technologies and/or controls to prevent crew members from using passkeys when off duty, and to effectively monitor crewmembers who are entering passenger cabins in the course of their duties. This is necessary in view of the increased risk posed by cabin stewards who have easy and frequent access to passengers, as noted in Royal Caribbean's June 1999 Swailes study. The technology is already well-established, and control procedures can easily be implemented to restrict the use of passkeys to certain hours or to establish a system whereby crew members physically turn in passkeys when they go off duty.
- Install peepholes and chains for all cabin doors.
- Install and monitor security cameras in the hallways of passenger cabins. This security method is routine throughout the hotel industry. Indeed, Royal Caribbean stated at the March hearing that it is changing to a digital security camera system. However, updated cameras are useless if they are not placed—and monitored—in ship areas where activity precedent to sexual assault commonly occurs. In Jane's case, had there been a monitored camera in her hallway, the rapist would likely have been deterred from committing the attack, and if not, security would have seen her rapist enter her cabin twice during a time period when he was off duty, and would have seen him pursuing her as she attempted to flee.
- Create a guest care team that lives up to its name. Ensure that guest care team members are independent of the corporate risk management department and outside counsel, and do not communicate information regarding a cruise line victim without the victim's written authorization. Provide training for guest care team members as to appropriate ways to assist victims of violent crime.
- Record all shipboard 911 calls. In an environment where there are no U.S. law enforcement authorities to whom passengers may turn when victimized by shipboard crime, the cruise lines must at the very least record their passengers' pleas for help.
- Ensure that all ships carry adequate supplies of rape kits, anti-retrovirals and other medications used to prevent STDs after a sexual assault, and administer a rape kit and anti-retroviral medications onboard if a rape victim cannot be transported to an adequate medical facility immediately after the rape. Notably, in Jane's case, there was a rape kit

onboard, but Royal Caribbean chose not to use it. Although I do not know if the ship had anti-retrovirals and other appropriate medications onboard, given Royal Caribbean's track record of sex assaults onboard, it should have maintained such items.

- Provide all sexual assault victims with the medical records of their rapists, so that victims may be properly treated for HIV and any other sexually transmitted diseases. (The cruise lines regularly assert that they are not covered by U.S. laws such as HIPAA, so crewmembers accused of rape are not entitled to medical records privacy.)
- Warn passengers that cruise ships are not crime-free. Cruise lines conduct safety drills at the beginning of each cruise during which passengers are taught where their life preservers are located and how to find their muster stations in case of emergency. Cruise lines also regularly warn passengers to beware of crime in certain ports of call. However, ship personnel fail to caution passengers about onboard crime. Cruise ships should warn passengers in writing and orally that they must be just as cautious on the ship as they would be in any city environment.
- Perform reasonable background checks on all employees who will be given unrestricted or unsupervised access to passengers, and provide appropriate supervision. In Jane's case, Royal Caribbean assigned a young man to be the cabin steward for a number of college-age women on a spring-break vacation cruise, and gave him unrestricted access to their rooms, apparently without any supervision or monitoring to ensure that he did not prey upon them.
- Immediately notify the FBI if a crime occurs involving a U.S. citizen. Royal Caribbean has previously testified that this is the company's policy, but in Jane's case the FBI was not notified until approximately 12 hours after the crime.

Anyone who suggests the industry can't afford these changes hasn't looked at the profit margins. Royal Caribbean is a \$14 billion company that made \$634 million in profits last year alone. As a company organized under the laws of Liberia, it does not pay the same U.S. taxes that other companies do. The cost of these improvements is pocket change for such a successful enterprise.

Indeed, in the long run, these changes will save the company money. If Royal Caribbean and other cruise lines fail to upgrade their policies, procedures and security operations, they will see an ever-growing number of victims prepared to file suits for damages based both on the company's strict liability for its employees' crimes, and on the company's own intentional misconduct in failing to prevent these incidents. The cruise industry also will see an increasingly

educated customer base choosing to forgo the risks of a cruise vacation where they will be at the mercy of foreign-flag ships and their employees who believe themselves to be beyond the reach of the law. Making the recommended changes will be inexpensive in comparison, and it will also allow the industry to honestly portray itself to future customers as a relatively safe and enjoyable vacation opportunity.

Conclusion

Because of the nature of the cruise industry, victims come from all parts of the country and all walks of life. Royal Caribbean alone had more than 10 million passengers last year. Unless real changes are implemented, and soon, any one of our loved ones could become the next "Jane Doe," savaged first by the depraved conduct of a crewmember, and then brutalized again by the unconscionable acts of a company determined to protect its public image and pocketbook without regard to the personal cost to its passengers.

I understand that our society is not crime-free and that cruise ships likely cannot be either. The critical question is whether the cruise industry is doing everything reasonable to prevent these horrific crimes of rape and sexual assault, and is responding in a responsible and appropriate manner when such crimes do occur.

Based on my client's experience, my survey of similar industries, and my experiences both as a former federal prosecutor and as a private lawyer conducting internal investigations, I believe the cruise industry is capable of much, much more. The industry owes its passengers safety and respect, not the callous, arrogant attitude that allows onboard sexual assault to be a chronic, unaddressed problem.

It is apparent that despite the cruise line industry's existing common law and statutory obligations, these companies are not willing to implement the security and response measures

necessary to safeguard American citizen passengers from the very real threat of sexual assault and other violent crimes. Congress has acted before to prevent cruise lines from avoiding liability for the sexual assaults committed by its employees,² but unfortunately that has not been enough. I request and encourage this Congress to further protect American citizen passengers through legislation requiring passenger vessel security plans to specifically address the risk of assaults on cruise ships and through federal codification of heightened liability against cruise lines that fail to take adequate measures to protect their passengers. Without such action, cruise lines will continue to view the victimization of American citizens as merely the cost of doing business.

Thank you. I look forward to your questions.

² 46 U.S.C. § 30509(b)(2).